

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: September 18, 2002

Division: Growth Management

Bulk Item: Yes No X

Department: N/A

AGENDA ITEM WORDING: Approval of a resolution adopting a plan and procedures for authorizing a time extension for liable non-compliant structures used for affordable housing from the compliance deadline under the County's Flood Insurance Inspection Program.

ITEM BACKGROUND: An element of the Implementation Plan for the Monroe County Flood Insurance Inspection and Compliance Program approved by the BOCC on April 17, 2002, is the establishment of a plan and procedures for providing additional time to come into compliance with the floodplain regulations for those non-compliant structures used for affordable housing. The Implementation Plan calls for the submittal of a plan and procedures to the Federal Emergency Management Agency by September 30, 2002.

The staff has prepared a recommended plan and process utilizing the County's Special Master for code enforcement for authorizing a one-year extension of the compliance deadline where it is determined the non-compliant downstairs below base flood enclosure is used for affordable housing. If the non-compliant structure is deemed eligible by the Special Master based on documentation provided, the County staff will submit a letter to FEMA requesting a one-year extension for the owner of the property from the compliance deadline. When approved by FEMA, the property owner's insurance will be renewed for another year, before the structure must come into compliance.

PREVIOUS RELEVANT BOCC ACTION: Adopted Resolution #187-2002 on April 17, 2002 approving Monroe County Flood Insurance Inspection and Compliance Program.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: ~\$8,000-10,000/year

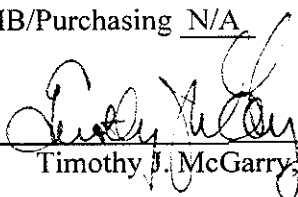
BUDGETED: Yes X No

COST TO COUNTY: ~\$8,000-10,000/year

REVENUE PRODUCING: Yes N/A No **AMOUNT PER MONTH** N/A **Year**

APPROVED BY: County Atty X OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry AICP

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # L5

County of Monroe


Growth Management Division
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Board of County Commissioners
Mayor Charles "Sonny" McCoy, Dist. 3
Mayor Pro Tem Dixie M. Spehar, Dist. 1
Comm. Bert Jimenez, District 4
Comm. Murray Nelson, District 5
Comm. George Neugent, District 2

MEMORANDUM

TO: Board of County Commissioners

FROM: Timothy J. McGarry, AICP
Director of Growth Management 

DATE: August 29, 2002

SUBJECT: **Plan and Procedures for Extension of Compliance Deadline
for Structures with Affordable Housing under the Flood
Insurance Inspection Program**

Overview

The Board of County Commissioners is requested to consider adopting the attached recommended resolution prepared by the Growth Management Division staff, which establishes a plan and administrative procedures to allow eligible dwelling units in non-compliant below base flood enclosures used as affordable housing additional time to come into compliance under the Flood Insurance Inspection Program.

Background

In its recommendations to the Board of County Commissioners, the Monroe County Affordable Housing Joint Task Force raised significant concerns about the potential loss of the County's affordable housing pool through the implementation of the County's Flood Insurance Inspection Program. Although the number of such affordable housing units at risk is unknown, the issue is of importance since the County has a documented lack of replacement affordable housing for any households to be displaced by the Flood Insurance Inspection Program. The issue is of sufficient importance to the Florida Department of Community Affairs (DCA) that it enter into Chapter 380 agreement with the County to provide 90 ROGO exempt units up-front as replacement housing for affordable units to be lost through the Flood Insurance Inspection Program.

An element of the "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program", approved by the Board of County Commissioners and the U.S. Federal Emergency Management Agency (FEMA), is the establishment of a plan and administrative

procedures for providing additional time to come into compliance for those non-compliant structures with below base flood enclosures occupied by very low to moderate income households as defined under the Monroe County Code. In approving the County's implementation plan, FEMA recognized the difficulty in finding suitable replacement housing for the County's most at risk population.

Plan and Procedures

The proposed plan establishes eligibility requirements, procedures, and a process utilizing the County's Special Master proceedings to specifically address non-compliant properties without imposing fines (for properties with violations less than four years old) or requiring the County to submit a declaration for denial of the property owner's insurance to FEMA pursuant to Section 1316 of the National Flood Insurance Act. The relief provided to eligible property owners meeting the criteria would be the granting of an additional year to bring their non-compliant structures into compliance. This extension would allow more time for households to be displaced under the Flood Insurance Inspection Program to find suitable replacement housing.

The staff recommends that the time extension be no longer than a year and that no further extensions be provided. This limitation recognizes that only 600 structures per year will be inspected starting with the newest structures. Therefore, most older structures with violations will have a long lead time, since it will take six years to complete all necessary inspections.

The proposed use of the Special Master in this process accomplishes two important objectives. First, it ensures that each case is presented and acted upon in a public forum in accordance with intent of the Flood Insurance Inspection Program eliminating concerns that the process is just another way to avoid or delay compliance. Second, it allows property owners the opportunity to fairly present their cases to the Special Master in a public, which removes the County staff from having to make decisions where the eligibility of the property owner may not be clear cut.

The major components of the plan are outlined in Exhibit One to the attached proposed adopting resolution. The proposed resolution also directs the staff to work closely with the Housing Authority to provide relocation assistance to households being displaced and reaffirms a BOCC policy incorporated in its resolution for the Tradewinds housing project that when County funds or other incentives are provided for affordable housing, these developments should give some preference or priority to households displaced by the Flood Insurance Inspection Program.

Recommendation

The staff recommends adoption of the proposed Resolution with attachment Exhibit One.

Attachments

RESOLUTION -2002

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA ADOPTING A PLAN AND PROCEDURES FOR AUTHORIZING A TIME EXTENSION FOR ELIGIBLE NON-COMPLIANT STRUCTURES USED FOR AFFORDABLE HOUSING FROM THE COMPLIANCE DEADLINE UNDER THE COUNTY'S FLOOD INSURANCE INSPECTION PROGRAM

WHEREAS, the Board of County Commissioners (BOCC) adopted on April 17, 2002, Resolution #187-2002, approving a revised implementation plan required by the Federal Emergency Management Agency; and,

WHEREAS, the Federal Emergency Management Agency (FEMA) has approved the revised implementation plan; and,

WHEREAS, an element of the revised implementation plan calls for the County to prepare by no later than September 30, 2002, a plan and procedures for FEMA's approval providing additional time to come into compliance for those non-compliant structures with below base flood enclosures occupied by moderate and lower income households; and,

WHEREAS, this element of the County's Flood Insurance Inspection Program recognizes the difficulty in finding suitable replacement housing for the County's most at-risk population and is an attempt to mitigate the adverse impacts of this program on these vulnerable households and the County's existing affordable housing stock; now therefore

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA that

Section 1: The BOCC hereby approves the "Plan and Procedures for Allowing an Extension from Compliance Deadlines under the Monroe County Flood Insurance Inspection Program for Eligible Non-compliant Below Base Flood Structures Used for Affordable Housing", which is hereby attached as Exhibit One.

Section 2: The Special Master is directed to work with the County Growth Management Division in the implementation of this Plan as outlined in Exhibit One.

Section 3: The County Administrator and staff are directed to work with Monroe County Housing Authority to provide assistance in finding and securing replacement

housing for eligible households displaced or to be displaced under the Flood Insurance Inspection Program.

Section 4: The BOCC establishes a policy that any affordable housing development receiving any County financial support or provided other incentives such as ROGO allocations or nutrient reduction credits should give preference or priority to County households displaced by the Flood Insurance Inspection Program.

Section 5: The County Administrator is directed to expeditiously transmit this Resolution and attached exhibit to Region IV office of FEMA.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting of said Board held on the 18th of September, A. D., 2002.

Mayor Charles "Sonny" McCoy _____
Mayor Pro Tem Dixie Spehar _____
Commissioner Bert Jimenez _____
Commissioner Murray Nelson _____
Commissioner George Neugent _____

(SEAL)
ATTEST: Danny K. Kolhage, Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Mayor/Chairman

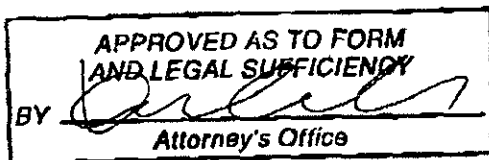


EXHIBIT ONE

PLAN AND PROCEDURES FOR ALLOWING AN EXTENSION FROM COMPLIANCE DEADLINES UNDER THE MONROE COUNTY FLOOD INSURANCE INSPECTION PROGRAM FOR ELIGIBLE NON-COMPLIANT BELOW BASE FLOOD ELEVATION STRUCTURES USED FOR AFFORDABLE HOUSING

- A. *Eligibility Requirements:* In order to be eligible for consideration, the property owner will have to provide evidence documenting the following:
1. The non-compliant below base flood elevation (BFE) downstairs enclosure is a separate dwelling living unit(s) from the above base flood elevation portion of the dwelling, as defined by the Monroe County Code and a 1998 Memorandum of Understanding with DCA.
 2. The non-compliant below BFE downstairs enclosure has been continually occupied full-time as a principal residence for at least the past six months by a household with an annual household income of not more than \$66,120.
 3. The subject structure received an inspection by the Monroe County Growth Management Division staff under the Flood Insurance Inspection Program and was found in violation of the floodplain ordinance.
- B. *Application for Relief:* Upon receipt of notification from the County that a property owner's inspected structure is in violation of the County floodplain regulations, the property owner will have thirty (30) days to submit a complete application to the Growth Management Division requesting consideration for relief by the Special Master from the compliance deadlines of the Flood Insurance Inspection Program. No fee will be charged for this application. Should this application deadline not be met, that property owner loses any eligibility or right to be considered for this limited extension of the required compliance deadline.
- C. *Application Review:* The County Growth Management Division staff will review the application to determine its completeness. If deemed complete, the application will be scheduled for a hearing before the Special Master and the staff will provide the Special Master with a recommended determination that the applicant is either eligible or ineligible. If deemed incomplete, the applicant will be notified and given ten (10) additional days to submit a revised, complete application to the Division. If a complete application is not submitted by the end of this ten (10) day period, the property owner loses any eligibility or right to be considered for this limited extension of the compliance deadline.

- D. *Special Master Proceeding:* The application requesting the extension from the compliance deadline of the Flood Insurance Inspection Program will be placed before the Special Master at a hearing. In cases where the staff has not determined the property owner is eligible or is unable to make such determination, the property owner will have the opportunity to provide additional information or testimony to support his/her case before the Special Master. If the property owner's structure is deemed eligible, the property owner will be given up to one additional year to bring the structure into compliance from the date of his ruling. To be eligible for the extension of the compliance deadline, all three eligibility criteria in A. above must be met.

If the subject property is deemed not eligible for the extension of the compliance deadline, the Special Master will give the property owner sixty (60) days to obtain a demolition permit to bring the structure into compliance. If the owner of a property with an identified violation chooses not to obtain the demolition permit by the deadline established above, or obtains the demolition permit but no approved final inspection occurs within sixty (60) days after issuance of the demolition permit, the County will pursue one of the following actions as applicable:

1. If the violation is less than four-years old, the County will expeditiously pursue code enforcement action and will formally submit a declaration for denial of the property owner's insurance to FEMA pursuant to Section 1316 of the National Flood Insurance if the structure is not brought into compliance.
2. If the violation is beyond the four-year statute of limitations, the County will submit a declaration for denial of the property owner's insurance to FEMA pursuant to Section 1316 of the National Flood Insurance Act.

- E. *Formal Request to FEMA:* Upon the written finding of the Special Master that the property owner's structure is eligible for the one-year extension of the compliance deadline, the County Growth Management Division will submit a formal letter to FEMA requesting a one-year extension for the owner of the property from the compliance deadline. When approved by FEMA, the property owner's insurance will be renewed for another year, before the structure must be brought into compliance.